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Supreme Court, U. S.
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IN THE

Supreme Court of the United States

October Term 1973

No. 73-1538

ROBERT V. RAFTER,

Petitioner,

against

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

ROBERT V. RAFTER,
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BATAVIA TIMES, APPELLATE COURT PRINTERS
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Murphy v. Waterfront Commission, 378 U.S. 52	2

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IN THE

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No. .....

ROBERT V. RAFTER,

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COMMISSIONER OF INTERNAL REVENUE,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Petitioner seeks a writ of certiorari to review the judgment of the United States Court of Appeals for the Second Circuit entered in the above tax proceeding 14 January 1974 (A 1, 2).

Opinion Below

No opinion was rendered by the Court of Appeals for the Second Circuit, and the opinion of the United States Tax Court (the Honorable C. MOXLEY FEATHERSTON) is officially reported at 60 T.C. No. 1. The decisions of the Tax Court are appended to this petition (A 3, 4).

Jurisdiction

Jurisdiction is invoked pursuant to Section 1254 of Title 28 of the United States Code.

Questions Presented

The basic question to be reviewed is whether the proceedings before the United States Tax Court were in violation of the Fifth Amendment in failing to provide a fair trial and in depriving petitioner of property without due process of law.[1]

Fairly comprised therein would seem to be some or all of the issues present in petitioner's mandamus application before this Court during the October Term 1970.[2]

Constitutional and Statutory Provisions Involved

The constitutional and statutory provisions which are relevant to decision of this case, and the pertinent text of which is appended hereto, are the Fifth Amendment of the Constitution of the United States and Section 7459 of Title 26 of the United States Code (A 10).

Statement

This application involves a tax proceeding[3] tried before the United States Tax Court, the Honorable AUSTIN HOYT presiding, at New York City on December 4 and 5, 1968.

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[1] *In Re*: Murchison, 349 U.S. 133, 138, 75 S.Ct. 623, 625, 99 L. ed. 942 (1954); Murphy v. Waterfront Commission, 378 U.S. 52, 55 (1964).

[2] No. 1274, October Term 1970, in the Supreme Court of the United States.

[3] Petitioner filed petitions for redetermination of tax deficiencies 25 April 1967 and 19 August 1968, consolidated docket Nos. 2044-67 and 3976-68.

In January of 1973 the proceeding was reassigned to the Honorable C. MOXLEY FEATHERSTON (A 3, 4), and decisions were entered 25 May 1973 (A 3, 4).[4] Thereafter, petitioner appealed, and by judgment entered 14 January 1974 the Court of Appeals affirmed the Tax Court (A 1).[5]

Reasons for Granting the Writ

The judgment below should be reviewed because the Court of Appeals has sanctioned a departure from the accepted and usual course of judicial proceedings. The Internal Revenue Code at Section 7459 (a) provides that a report upon any proceeding instituted before the Tax Court and a decision thereon shall be made as quickly as practicable, and this is set forth as a "Requirement" (A 10):

It would seem that, if the words "as quickly as practicable" and "Requirement" have any meaning at all, then a retrial should be granted. To say that a decision rendered four and one half years after trial meets with the requirement of the Code or the Fifth Amendment is to further aggrandize the executive department and abrogate judicial principle and congressional enactment.

Petitioner respectfully requests a retrial and, upon the retrial, an assurance from the Tax Court that the issue of credibility of the witnesses will be decided by the court presiding at the trial.

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[4] Petitioner's motion for retrial was denied 4 May 1973 (A5).

[5] The docket No. before the Court of Appeals for the Second Circuit is 73-2348.

Conclusion

For the foregoing reasons, it is respectfully submitted that this petition for a writ of certiorari should be granted.

Respectfully submitted,

ROBERT V. RAFTER,
Attorney for Petitioner.

APPENDIX

Judgment of the Court of Appeals

UNITED STATES COURT OF APPEALS

SECOND CIRCUIT

At a Stated Term of the United States Court of Appeals, in and for the Second Circuit, held at the United States Courthouse in the City of New York, on the fourteenth day of January one thousand nine hundred and seventy-four.

Present: Hon. Leonard P. Moore,
Hon. Henry J. Friendly,
Hon. Robert P. Anderson,
Circuit Judges.

ROBERT V. RAFTER,
Petitioner-Appellant,

v

COMMISSIONER OF INTERNAL REVENUE,
Respondent-Appellee.

73-2348.

Appeal from The Tax Court of the United States

This cause came on to be heard on the transcript of record from The Tax Court of the United States , and was argued by counsel.

Judgment of the Court of Appeals

ON CONSIDERATION WHEREOF, it is now hereby ordered, adjudged, and decreed that the order of said The Tax Court of the United States be and it hereby is affirmed with costs to be taxed against the appellant.

A. DANIEL FUSARO,
Clerk,

By: VINCENT A. CARLIN,
Chief Deputy Clerk.

United States Court of Appeals
Second Circuit
Filed, January 14, 1974
A. DANIEL FUSARO, Clerk

UNITED STATES TAX COURT

WASHINGTON

ROBERT V. RAFTER,

Petitioner,

v.

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

Docket No. 2044-67.

DECISION

Pursuant to the determination of the Court, as set forth in its Findings of Fact and Opinion, filed April 2, 1973, it is

ORDERED AND DECIDED: There are deficiencies in petitioner's income tax for the taxable years 1963, 1964, and 1965 in the amounts of $350.10, $298.37, and $721.40, respectively.

Enter:

C. MOXLEY FEATHERSTON,
Judge.

Entered: May 25, 1973.

(Signed) C. Moxley Featherston.

UNITED STATES TAX COURT

ROBERT V. RAFTER,

Petitioner,

v.

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

Docket No. 3976-68.

DECISION

Pursuant to the opinion of the Court filed April 2, 1973, and incorporating herein the facts recited in the respondent's computation as the findings of the Court, it is

ORDERED and DECIDED: That there is a deficiency in income tax due from the petitioner for the taxable year 1966 in the amount of $1,057.43.

(Signed) C. MOXLEY FEATHERSTON,
Judge.

Entered: May 25 1973.

Motion for Retrial, Dated May 1, 1973

May 1, 1973

UNITED STATES TAX COURT

ROBERT V. RAFTER,

Petitioner,

against

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

Docket Nos. 2044-67 and 3976-68.

MOTION FOR RETRIAL, FURTHER TRIAL AND RECONSIDERATION PURSUANT TO RULE 19(e)

Petitioner respectfully moves for retrial, further trial and reconsideration pursuant to Rule 19(e) of the Rules of the United States Tax Court.

The basis for this motion is as follows:

(1) This proceeding before the executive department has not provided a fair trial and is contrary to the fifth amendment. The three previous motions for further trial together with the motion for leave to depose were denied without opinion. The matter was tried during the first week of December, 1968, and decided by a different court almost five years later.

(2) The opinion fails to consider *Lynch, Fuentes, Sniadach* or *Tucker* all holding prejudgment garnishment, attachment and bank repossession to be unconstitutional,[1] with specific application to the Connecticut design.

According to the supreme law of the land, then, both Spiegelman actions were illegal, and both actions by petitioner against Newark and Blackmon were valid. It would seem proper to seek to defend against illegal procedures involving the appropriation and repeated appropriation of income producing property belonging to plaintiff and to seek damages for the interference with those property rights. And ordinary and necessary expense incurred would seem to be deductible.

(3) The opinion fails to consider *Lynch v. Household Finance Corp.*, decided January 12, 1973, U.S.D.C. Connecticut, holding 52-329 of the General Statutes of the State of Connecticut unconstitutional. So it would seem that the crusade or vendetta set forth in the court's opinion was successful and the desired result obtained, though petitioner would never term endeavors to support the constitution and to preserve it a "crusade or vendetta".

(4) Understandably there is no mention of petitioner's property rights in the earlier antitrust suit and in the tax plan mentioned in that suit involving tax free operation of vessels in foreign commerce. It would seem that expense related to the preservation of those rights should be allowed. It would seem further that all of that related litigation did result in the freezing of evidence and testimony

[1] *Lynch v. Household Finance Corp.*, 405 U.S. 538; *Fuentes v. Shevin*, 407 U.S. 67; *Sniadach v. Family Finance Corp.*, 395 U.S. 337; *Tucker v. Maher*, 405 U.S. 1052.

concerning alleged restraint of foreign commerce and alleged insurance boycott.[2]

(5) Your petitioner respectfully calls to the court's attention certain assumptions of fact and conclusions of law that seem to be mistaken but too numerous to set forth in these motion papers.[3] Also, the 1966 return sets forth the evidence of the alleged theft in the form of the Blackmon deposition, an exhibit at the trial referred to by the court at that time. The deposition is not in Washington. Again, on the issue of theft, one form of larceny is a taking in connection with a trespass (New York statute), so also the failure to return the attached property upon withdrawal of the lawsuit, and the reattachment with the knowledge that the bank would claim the property in a few days, while the same bank withheld petitioner's funds for payment of

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[2] Perhaps had friendly relations with Middle East oil been established through the democratic method of private enterprise, rather than executive decree, there would be no energy or trade deficit, and perhaps, too, there would be a sound dollar.

[3] For instance at page 16 the court speaks of litigation which is ordinary and necessary.

Top of page 9, no petition for a writ was denied. Appeal Printing filed the petition two days late.

Second paragraph page 7, how can employment be terminated in August for something done in November, see last paragraph of page 6.

Also, under New York decisions, counterclaims must be made by one in the same capacity as sued, see evidence and certified copies of checks in court's possession, see conclusions at page 6 of the court's opinion, first paragraph.

At page 13 automobile expense is incurred and paid. At page 15 the court's expenses and allowance excludes travel expense, yet it would seem to be ordinary and necessary.

At page 27, first paragraph, Section 446(e) is cited on the issue of permission to change accounting methods. No mention is made of waiver or permission set forth in 1963 tax form, c59-16-77888a-1 at Schedule C instructions.

the debt under an illegal prejudgment garnishment. It would seem that a jury could find a wrongful design to appropriate the property, could find intent, bearing in mind that the bank's taking also violated the constitution under the cases cited earlier.

(6) At page 19, footnote 6, and at page 26, the court states petitioner filed his returns prior to 1963 on a cash basis. Is there evidence in the record of these returns. It is more likely that 1963 was the exception proceeding from an error on the part of petitioner. Further testimony and evidence would seem to be required for this conclusion twice stated by the court.

WHEREFORE, petitioner respectfully requests a fair trial pursuant to the fifth amendment entailing reconsideration, retrial and further trial under Rule 19(e) of the Rules of the United States Tax Court.

Respectfully submitted,

ROBERT V. RAFTER.

Notice of Reassignment

UNITED STATES TAX COURT
Washington

ROBERT V. RAFTER,
Petitioner,

v.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Docket Nos. 2044-67 and 3976-68.

Judge Austin Hoyt, to whom this proceeding was formerly assigned, has been ill for several months, and it is not anticipated that he will be able to return to his chambers for several more months. This will serve as notice to the parties that this proceeding will be reassigned to another Judge on the Court for final disposition.

It is not anticipated that any rehearing or reargument will be necessary in connection with this proceeding, since the entire file and record herein will be transferred to the Judge to whom the case is assigned. However, should any motions be contemplated in connection with this proceeding, they should be addressed to Chief Judge Drennen and filed immediately. If no such motions are received within 15 days, this proceeding will be assigned to another Judge who will proceed with the disposition thereof.

W. M. DRENNEN.
(Signed) W. M. DRENNEN,
(SEAL) *Chief Judge.*

Dated: Washington, D. C.,
December 12, 1972.

Fifth Amendment to the Constitution of the United States
Internal Revenue Code, 26 U.S.C. 7459(a)

Fifth Amendment to the Constitution of the United States

CONSTITUTIONAL AND STATUTORY PROVISIONS

Amendments to the Constitution

ARTICLE THE FIFTH

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment of indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

Internal Revenue Code, 26 U. S. C. 7459(a)

Statutory Provisions
Title 26 of the United States Code
Section 7459. Reports and Decisions
(a) Requirement.—etc.

§ 7459. REPORTS AND DECISIONS

(a) REQUIREMENT.—A report upon any proceeding instituted before the Tax Court and a decision thereon shall be made as quickly as practicable. The decision shall be made by a judge in accordance with the report of the Tax Court, and such decision so made shall, when entered, be the decision of the Tax Court.

In the Supreme Court of the United States

OCTOBER TERM, 1973

No. 73-1538

ROBERT V. RAFTER, PETITIONER

v.

COMMISSIONER OF INTERNAL REVENUE

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

MEMORANDUM FOR THE RESPONDENT IN OPPOSITION

1. In April, 1967, petitioner commenced proceedings in the Tax Court seeking a redetermination of income tax deficiencies for the years 1963–1966 of approximately $2,900, which resulted from the Commissioner's disallowance of certain claimed deductions for litigation expenses and a purported theft loss (Pet. App. A3–A4). Petitioner, a lawyer, appeared *pro se* at the trial in December 1968 (Pet. 2).

At the close of his testimony, petitioner voluntarily rested his case even though several of his witnesses had failed to appear. Petitioner did not request a recess, or continuance, but stated (Tr. 131):

> MR. RAFTER. I find that two witnesses from my—I frankly don't know whether they were served or not. I know I tried to get them

served. They have not appeared and I will not take up further time of the Court and this does conclude my testimony, my case.

The COURT. The petitioner rests then at this time?

Mr. RAFTER. Yes, your Honor.

Approximately three weeks later, petitioner filed a motion in the Tax Court to reopen the record to take the testimony of the witnesses who had not appeared at trial. The motion was denied[1] (Appendix, *infra*, pp. 6, 10).[2] Petitioner thereupon filed a motion in the United States District Court for the Southern District of New York to enforce the Tax Court subpoenaes of these witnesses. That motion was denied in May, 1969 (Motion 35–37).[3] On October 31, 1969, petitioner renewed his motion in the Tax Court for further trial. This motion was denied on November 12, 1969 (Appendix, *infra*, pp. 7, 10).

In June, 1970, petitioner filed a mandamus petition in the court of appeals requesting it to order the Tax Court to reopen the record. The petition was denied on June 18, 1970 (Motion 13–19). On Septem-

[1] This was the first of numerous similar motions in which petitioner sought to have the record reopened. The Tax Court denied these motions because petitioner had voluntarily rested his case and because he had not shown what evidence the missing witnesses would offer or even whether they had evidence not otherwise available to petitioner (60 T.C. 1, 9, n. 5). Cf. *ARC Realty Co.* v. *Commissioner*, 295 F. 2d 98 (C.A. 8).

[2] We have attached as an Appendix hereto a copy of the docket entries of the Tax Court.

[3] "Motion" references are to a Motion for Leave to File a Petition for a Writ of Mandamus filed by petitioner in this Court on January 26, 1971. That motion was denied. *Rafter* v. *Hoyt*, 401 U.S. 1008.

ber 29, 1970, petitioner sought from this Court a stay of the Tax Court proceedings pending a disposition by this Court of his motion for leave to file a petition for a writ of mandamus. The stay was denied on November 11, 1970, and the motion was denied on April 5, 1971 (Motion 11).

On December 12, 1972, the Tax Court advised the parties that due to the prolonged and continuing illness of the trial judge, the case was to be reassigned for disposition to another judge (Pet. App. A9). Petitioner did not object to the reassignment. However, in a motion filed on January 4, 1973, he again requested that the record be reopened for further proceedings. That motion was denied on January 18, 1973 (Appendix, *infra*, pp. 7, 10). After the Tax Court filed an opinion adverse to the petitioner on April 2, 1973, petitioner filed a motion for retrial which was denied on May 4, 1973 (Appendix, *infra*, pp. 7–8, 10–11). On May 25, 1973, the Tax Court entered its decision holding against petitioner (Appendix, *infra*, pp. 8, 11). The court of appeals affirmed (Pet. App. A1–A2).[4]

2. Petitioner argues (Pet. 3) that the delay between the trial of this case (December 1968) and the final decision by the Tax Court (May 1973) is contrary to Section 7459(a) of the Internal Revenue Code of 1954, which provides that a Tax Court de-

[4] In his brief in the court of appeals, petitioner sought a reversal of the Tax Court decision based on (i) the alleged error of the Tax Court in disallowing a claimed "theft loss" deduction and (ii) a claimed denial of a fair trial which petitioner argued resulted from the denial of a motion for pretrial discovery and his various post-trial motions to reopen the record.

cision is to be issued "as quickly as practicable." But much of the delay between the trial and the decision is directly attributable to the numerous motions filed by petitioner in the Tax Court, the court of appeals, and in this Court seeking to reopen the proceedings and to prevent the Tax Court from rendering its decision. After the last of petitioner's post-trial attempts to secure a writ of mandamus was concluded in this Court in April, 1971, the Tax Court, due to the continuing illness of the trial judge, reassigned the case to another judge for decision in December, 1972. The case was decided shortly thereafter in April, 1973.

Under these circumstances, the decision was in fact issued "as quickly as practicable" in accordance with Section 7459(a).

For the foregoing reasons, it is respectfully submitted that the petition for a writ of certiorari should be denied.

ROBERT H. BORK,
Solicitor General.

JUNE 1974.

APPENDIX

TAX COURT OF THE UNITED STATES
GENERAL DOCKET

DOCKET NO. 2044-67

CLASS

ROBERT W. BAFFER
[illegible] Main Beach Road, One North Avenue,
Weston, Connecticut 06883 PETITIONER.
VS.
COMMISSIONER OF INTERNAL REVENUE. RESPONDENT.

APPEARANCES FOR PETITIONER:
NAME
ADDRESS

Date Month Day Year	Filings and Proceedings	Action	Served
Apr. 25, 1967	PETITION FILED. FEE PAID Apr. 25, 1967		Apr. 25, 1967
June 21, 1967	REQUEST by Resp. for trial at New York, N.Y.	GRANTED 6/21/67	June 22, 1967
June 21, 1967	ANSWER filed by Resp.		JUN 22 1967
Feb. 27, 1968	APPLICATION by petitioner for order to take depositions of Cloud Wampler, William Bymm, Melvin Holm, Thomas Deegan, Charles Lane, Fairfield County Trust Company, Floyd Blackmon, Vincent Tirola, Joseph Simone, James Graesele, Sidney Spector, Daniel Coughlin, John Garrity, Joseph Hannivar, Thomas Spear, Horace Flannagan, Donald Hays and Alexander Kellegrew, at New York, N. Y.	DENIED by ORDER March 20,1968.	
Feb. 25, 1968	NOTICE of filing of application to take depositions of 18 witnesses, to Respondent (OBJ. due on or before March 13, 1968)		FEB 2 8 1968
Mar. 11, 1968	NOTICE of objection to application to take depositions of 18 witnesses, filed by Resp.		Mar. 12, 1968
March 12,1968	NOTICE of HRG. March 20,1968 Wash. D.C. on petrs application to take deposition (of the above named)		MAR 12 1968

Form No. 11
March 1967

TAX COURT OF THE UNITED STATES

GENERAL DOCKET

DOCKET NO. 2044-67

Date Month Day Year	Filings and Proceedings	PETITIONER Action	PAGE Served
	and respondent's objection thereto.		
March 19,1968	Petitioners Memorandum in support of Application for Order to take Dep.		March 27, 1968
March 20,1968	HEARING before Judge Arundell - Wash. D.C.		
	Petitioners application to take depositions - Denied		
March 20,1968	ORDER that petr's application for order to take depositions		March 27,1968
	is denied. Judge Arundell		
Sept. 3, 1968	NOTICE of Trial on Dec. 2, 1968 at New York, N.Y.		Sept. 3, 1968
Nov. 5, 1968	MOTION by resp. to calendar Docket 1976-68 for trial at		
	New York, N.Y., on Dec. 2, 1968, and to consolidate		
	2044-67 & 1976-68 for trial, briefing and opinion,		
	or in the alternative to continue.	GRANTED 12/2/68	
Nov. 15, 1968	NOTICE of Filing of motion by resp. to calendar and		
	consolidate or in the alternative continue, and		
	Hearing on Dec. 2, 1968 at New York, N.Y.		Nov. 15, 1968
Dec. 2,4,5,1968	TRIAL at New York, N.Y. before Judge Hoyt.		
	Resp's Motion to Calendar and Consolidate 2044-67 &		
	1976-68 for Trial, Briefing and opinion-GRANTED-12/2/68.		
	Served Dec. 10, 1968.		
	Stipulation of Facts filed.		
	PETR'S ORIGINAL BRIEF DUE - Feb. 3, 1969		
	RESP'S ANSWER BRIEF DUE - March 20, 1969		
	PETR'S REPLY BRIEF DUE - April 21, 1969		
	UNDER SUBMISSION - JUDGE HOYT		
Dec. 24, 1968	MOTION by petr. for further trial.	DENIED 1/1/69	Jan. 6, 1969
Jan. 10,1969	TRANSCRIPT of trial proceedings of Dec.2,4,5, 1969 rec'd. (3-Vols)		
Feb. 4, 1969	BRIEF for Petitioner filed		Feb. 4, 1969

TAX COURT OF THE UNITED STATES

GENERAL DOCKET

DOCKET NO. 2011-67

DATE	Filings and Proceedings	PETITIONER Action	PAGE Served
March 20, 1969	REPLY IN ANSWER filed by respondent.		March 24, 1969
April 22, 1969	REPLY filed by petitioner.		April 23, 1969
Oct. 31, 1969	ORDERED MOTION for further Trial, filed by Petr.	DENIED Nov. 12, 1969	Nov. 13, 1969
Dec. 12, 1972	NOTICE of Reassignment - Should any motions be contemplated		Dec. 18, 1972
	in connection with this proceeding, they should be		
	addressed to Chief Judge Drennen and filed immediately.		
	If no such motions are received within 15-days this		
	proceeding will be assigned to another Judge who will		
	proceed with the disposition thereof. Judge Drennen		
Dec. 27, 1972	ORDER of Reassignment - Case reassigned to		Jan. 17, 1973
	JUDGE FEATHERSTON		
Jan. 4, 1973	MOTION by Petr. for a rehearing, reargument,		
	retrial, further trial and reconsideration.	DENIED Jan. 18, 1973	Jan. 22, 1973
	(OK to file per Judge Drennen)		
Apr. 2, 1973	FINDINGS OF FACT AND OPINION filed, Judge		
	Featherston.		
	Decision will be entered for the Resp.		Apr. 2, 1973
May 1, 1973	MOTION by Petr. for retrial, further trial		
	and reconsideration pursuant to Rule 19(e).		
May 4, 1973	ORDERED the following sentence be inserted at the open-		MAY 7 1973
	ing of the second paragraph of page 6 of Court's opinion (see order) cont'd to page		
	further, ORDERED that opinion of the court filed April		
	2, 1973 remain unchanged otherwise, petitioner's motion		
	for retrial, Further Trial and		

TAX COURT OF THE UNITED STATES
GENERAL DOCKET

DOCKET NO. 2044-67

(Continuation)

ROBERT V. RAFIER,

Date (Month, Day, Year)	Filings and Proceedings FEATHERSTON	PETITIONER Amount	PAGE Serial
MEMO 5/4/73	Reconsideration Pursuant to Rule 19,(e) be denied in all		
	other respects. Judge Featherston.		
May 25, 1973	DECISION ENTERED, Judge Featherston.		May 25, 1973
	APPELLATE PROCEEDINGS		
Aug. 15, 1973	NOTICE OF APPEAL to U.S.C.A., 2nd Cir., filed by Petr.		Aug. 23, 1973
Aug. 23, 1973	NOTICE of Filing with copy of Notice of Appeal sent to		
	Acting Chief Counsel.		Aug. 23, 1973
Aug. 23, 1973	NOTICE, to parties, of assembling and date for trans-		
	mission of record.		Aug. 23, 1973

TAX COURT OF THE UNITED STATES
GENERAL DOCKET

DOCKET NO. 3976-68

CLASS

ROBERT V. RAFTER,
~~Nos 20 Old Rock Road~~ One North Avenue,
Weston, Connecticut 06880

PETITIONER,

VS.

COMMISSIONER OF INTERNAL REVENUE,

RESPONDENT.

APPEARANCES FOR PETITIONER:

NAME

ADDRESS

Date Month Day Year	Filings and Proceedings	Action	Served
Aug. 19, 1968	PETITION FILED: FEE PAID August 19, 1968		Aug. 20, 1968
Oct 11, 1968	REQUEST by Resp. for trial at New York, New York	GRANTED Oct 15, 1968	OCT 1 6 1968
Oct 11, 1968	ANSWER filed by Resp.		OCT 1 6 1968
Nov. 5, 1968	MOTION by resp. to calendar Docket 3976-68 for trial at New York, N.Y., on Dec. 2, 1968, and to consolidate 2044-67 & 3976-68 for trial, briefing and opinion, or in the alternative to continue.	GRANTED Dec. 2, 1968	Dec. 10, 1968
Nov. 15, 1968	NOTICE of Filing of motion by resp. to calendar and consolidate or in the alternative continue, and Hearing on Dec. 2, 1968 at New York, N.Y.		Nov.15, 1968
Dec. 2-5, 1968	TRIAL at New York, N.Y. before Judge Hoyt. Resp's Motion to Calendar and Consolidate 2044-67 & 3976-68 for Trial, Briefing and Opinion - GRANTED-12/2/68. Served. Dec. 10, 1968. Stipulation of Facts filed. PETR'S OPENING BRIEF DUE - Feb. 3, 1969 RESP'S ANSWER BRIEF DUE - March 20, 1969 PETR'S REPLY BRIEF DUE - April 21, 1969		
	[illegible]		

Form No. 11
Rev. 1967

TAX COURT OF THE UNITED STATES

GENERAL DOCKET

DOCKET NO. 3976-68

(Corrected)

ROBERT V. PAFFER	SUBMITTED - JUDGE HOFT FEATHERSTON	PETITIONER	PAGE
Date Month Day Year	Filings and Proceedings	Action	Served
Dec. 24, 1968	MOTION by petr. for further trial.	DENIED 1/3/69	Jan. 6, 1969
Jan. 10, 1969	TRANSCRIPT of trial proceedings of Dec. 2, 4 and 5, rec'd (3 Vols.)		
Feb. 4, 1969	BRIEF for Petitioner filed		FEB 4 1969
March 20, 1969	BRIEF IN ANSWER filed by respondent.		March 24, 1969
April 22, 1969	REPLY BRIEF filed by petitioner.		April 21, 1969
Oct. 31, 1969	RENEWED MOTION for further trial, filed by Petr.	DENIED Nov. 12, 1969	Nov. 13, 1969
Dec. 12, 1972	NOTICE of Reassignment - Should any motions be contemplated in connection with this proceeding, they should be addressed to Chief Judge Drennen and filed immediately. If no such motions are received within 15-days this proceeding will be assigned to another Judge who will proceed with the disposition thereof. Judge Drennen		Dec. 18, 1972
Dec. 27, 1972	ORDER of Reassignment - REASSIGNED TO JUDGE FEATHERSTON.		
Jan. 4, 1973	MOTION by Petr. for a rehearing, reargument, retrial, further trial and reconsideration. (OK to file Per Judge Drennen)	DENIED Jan. 18, 1973	Jan. 17, 1973 Jan. 23, 1973
Apr. 2, 1973	FINDINGS OF FACT AND OPINION filed, Judge Featherston. Decision will be entered under Rule 50.		Apr. 2, 1973
May 1, 1973	MOTION by Petr. for retrial, further trial and reconsideration pursuant to Rule 19(e).		
May 1, 1973	RULE 50 COMPUTATION filed by Respondent.		
May 4, 1973	ORDERED the following sentence be inserted at the opening of the second paragraph of page 6 of Court's opinion (see Order)		May 7, 1973

U.S. GOVERNMENT PRINTING OFFICE: 1968—O-678-210
867-540

TAX COURT OF THE UNITED STATES

GENERAL DOCKET

DOCKET NO. 3976-68

(Continued)

ROBERT V. BAFTER — PETITIONER — PAGE

Date Month Day Year	Filings and Proceedings	Amount	Served
(Order 5/4/73 continued:)	Further, ORDERED that opinion of the court filed April 2, 1973		
	remain unchanged otherwise, petitioner's motion for re-		
	trial, Further Trial and Reconsideration Pursuant to		
	Rule 19 (e) be denied in all other respects.		MAY 7 1973
	Judge Featherston.		
May 8,1973	NOTICE of filing of Computation under Rule 50		May 8,1973
	and hearing on May 23,1973 at Wash.D.C. (Cbs		
	due 5 days prior to hearing.);		
May 23,1973	HEARING at Wash. D.C. before Judge Scott.		
	Hearing under Rule 50. - Referred to Judge		
	Featherston.		
May 25, 1973	DECISION ENTERED, Judge Featherston.		May 25, 197
	APPELLATE PROCEEDINGS		
Aug. 15, 1973	NOTICE OF APPEAL to U.S.C.A., 2nd Cir., filed by Petr.		Aug. 23, 197
Aug. 21, 1973	NOTICE of Filing with copy of Notice of Appeal sent to		
	Acting Chief Counsel.		Aug. 23, 197
Aug. 23, 1973	NOTICE, to parties, of assembling and date for trans-		
	mission of record.		Aug. 23, 197

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